

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

MARCUS R. WILLIAMS,

Plaintiff,

v.

M. YARBOROUGH, et al.,

Defendants.

CASE NO. 1:02-CV-5094-REC-SMS-P

ORDER STRIKING MOTION FOR  
SUMMARY JUDGMENT

(Doc. 86)

Plaintiff Marcus R. Williams (“plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. This action is proceeding on plaintiff’s second amended complaint, filed August 21, 2003, against defendants Witcher and Yarborough on plaintiff’s Eighth Amendment denial of exercise claim, and against defendant Yarborough on plaintiff’s equal protection claim. On December 16, 2005, defendants Yarborough and Witcher (“defendants”) filed a motion for summary judgment.

The deadline for filing pretrial dispositive motions was October 19, 2005. Neither plaintiff nor defendants filed a dispositive motion and this matter was set for trial by order filed November 4, 2005. Although defendants moved for leave to file a motion for summary judgment on or before December 16, 2005, their request is still pending before the court. Until defendants’ request is addressed by the court, defendants may not file a late motion for summary judgment. If defendants are granted leave of court, defendants may at that time file their motion. If a ruling is made in defendants’ favor, the court will set a new deadline.

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1 Based on the foregoing, defendants' motion for summary judgment, filed without leave of  
2 court on December 16, 2005, is HEREBY STRICKEN FROM THE RECORD.

3  
4 IT IS SO ORDERED.

5 **Dated: December 21, 2005**  
6 icido3

**/s/ Sandra M. Snyder**  
UNITED STATES MAGISTRATE JUDGE